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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,092	02/17/2004	Heinz-Hermann Wippersteg	2859	6333

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STRIKER, STRIKER & STENBY  
103 East Neck Road  
Huntington, NY 11743

EXAMINER

LO, SUZANNE

ART UNIT PAPER NUMBER

2128

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/781,092	<b>Applicant(s)</b> WIPPERSTEG ET AL.	
	<b>Examiner</b> Suzanne Lo	<b>Art Unit</b> 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/18/04</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 1-23 have been presented for examination.

**PRIORITY**

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

**Information Disclosure Statement**

3. The information disclosure statement (IDS) submitted on 11/18/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the Examiner has considered the IDS as to the merits.

**Drawings**

4. Figures 1-2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**Claim Rejections - 35 USC § 101**

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, specifically, there is no tangible result.

**Claim Rejections - 35 USC § 112**

**The following is a quotation of the second paragraph of 35 U.S.C. 112:**

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2, 7-14, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the adjustable parameter" in the second line of the claim. There is insufficient antecedent basis for this limitation in the claim. As claim 1 recites the limitation of "optimizing adjustable parameters", it is unclear which adjustable parameter claim 2 is referring to.

Claim 7 recites the limitation "the adjustable parameter" in the second line of the claim. There is insufficient antecedent basis for this limitation in the claim. As claim 1 recites the limitation of "optimizing adjustable parameters", it is unclear which adjustable parameter claim 7 is referring to.

Claim 9 recites the limitation "the further parameter" in the second and third lines of the claim. There is insufficient antecedent basis for this limitation in the claim.

Also, the claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

In claim 23, it is unclear what is defined by the term "expert questioning" in the second line of the claim.

Claims 7-13 all recite a list of component limitations after the phrase "using as" without reciting what these components are used as.

Claims 2 and 14 contain redundant language in recitation of a group limitation containing several elements and the limitation of both elements or a combination of those elements wherein the group inherently contains more a group of more than one element.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-14, 22-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Weigelt et al. (U.S. Patent No. 5,712,782).**

As per claim 1, Weigelt is directed to a method of optimization of adjustable parameters of at least one machine, comprising the steps of providing a data processing system; and optimizing adjustable parameters by processing of at least one process algorithm provided in the data processing system (column 4, lines 38-55).

As per claim 2, Weigelt is directed to a method as defined in claim 1; and further comprising determining the optimization of the adjustable parameter by target data selected from the group consisting of editable target data, storable target data, and both (column 7, lines 1-39).

As per claim 3, Weigelt is directed to a method as defined in claim 1; and further comprising forming the data processing system as a diagnosis system (column 6, lines 13-24).

As per claim 4, Weigelt is directed to a method as defined in claim 1; and further comprising processing by the data processing system machine-internal data and machine-external data with consideration of target data, and generating further-processible output data (column 7, lines 1-39).

As per claim 5, Weigelt is directed to a method as defined in claim 4; and further comprising editing and storing the machine-internal data, the machine-external data and the output data by the data processing system (column 7, lines 1-39).

As per claim 6, Weigelt is directed to a method as defined in claim 1; and further comprising operating the data processing system in a time controlled manner (column 5, lines 24-33).

As per claim 7, Weigelt is directed to a method as defined in claim 4; and further comprising using as the machine-internal data the adjustable parameter to be optimized, a further parameter and an internal expert knowledge (column 7, lines 30-39).

As per claim 8, Weigelt is directed to a method as defined in claim 7; and further comprising using as the adjustable parameter to be optimized a traveling speed, a rotary speed of at least one threshing drum and/or the rotary speed of a blower of at least one cleaning device (column 5, lines 24-33).

As per claim 9, Weigelt is directed to a method as defined in claim 7; and further comprising using as the further parameter a crop-specific and/or machine-specific parameter; and performing the determination of the further parameter by sensors which are in operative communication with the machine or by inputting (column 5, lines 48-59).

As per claim 10, Weigelt is directed to a method as defined in claim 9; and further comprising using as the further parameter a parameter selected from the group consisting of a grain loss, a grain throughput, a crop moisture, a crop total throughput and a broken corn portion (column 7, lines 40-55).

As per claim 11, Weigelt is directed to a method as defined in claim 9; and further comprising using as the further parameter adjustment regions for parameters of working units of the machine (column 6, lines 13-24).

As per claim 12, Weigelt is directed to a method as defined in claim 5; and further comprising generating the machine-external data by external systems and using as the machine-external data plant-specific data, geographic data, weather data and/or external expert knowledge (column 2, lines 40-55).

As per claim 13, Weigelt is directed to a method as defined in claim 12; and further comprising using as the external expert knowledge and as internal expert knowledge crop and/or data and experience knowledge (column 7, lines 30-39).

As per claim 14, Weigelt is directed to a method as defined in claim 1; and further comprising processing with the at least one process algorithm of the data processing device, of a diagnosis selected from the group consisting of process diagnosis, case diagnosis, model-oriented diagnosis, and combination thereof (column 8, line 60 – column 9, line 7).

As per claim 22, Weigelt is directed to a method as defined in claim 1, wherein the machine is an agricultural harvester; and further comprising determining at least one process algorithm depending on harvesting conditions of the agricultural harvester (column 5, lines 40-59).

As per claim 23, Weigelt is directed to a method as defined in claim 1; and further comprising adapting the processing algorithm by expert questioning (column 8, lines 15-19).

8. Claims 1-2, 15-22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Bischoff (U.S. Patent No. 6,726,559 B2).

As per claim 1, Bischoff is directed to a method of optimization of adjustable parameters of at least one machine, comprising the steps of providing a data processing system; and optimizing adjustable

parameters by processing of at least one process algorithm provided in the data processing system (column 2, lines 13-31).

As per claim 2, Bischoff is directed to a method as defined in claim 1; and further comprising determining the optimization of the adjustable parameter by target data selected from the group consisting of editable target data, storable target data, and both (column 4, line 60 – column 5, line 12).

As per claim 15, Bischoff is directed to a method as defined in claim 1; and further comprising selecting the process algorithm to be processed from a plurality of process algorithms (column 5, lines 42-47).

As per claim 16, Bischoff is directed to a method as defined in claim 1; and further comprising proposing or automatically selecting a process algorithm by the data processing system depending on data selected from the group consisting of machine-internal data, machine-external data, and target data (column 5, lines 34-61).

As per claim 17, Bischoff is directed to a method as defined in claim 1; and further comprising defining situation patterns for the process algorithms by at least a part of data selected from the group consisting of machine-internal data, machine-external data, target data and combinations thereof (column 6, lines 49-65); and selecting a situation pattern which comes close or is identical to an instantaneous situation pattern and a process algorithm linked to the situation pattern, depending on the at least one part of the machine-interior data and machine-exterior data with consideration of the target data which defines at least a part of an instantaneous situation pattern (column 6, lines 45-49).

As per claim 18, Bischoff is directed to a method as defined in claim 1; and further comprising generation by the data processing system of changed process algorithms depending on machine-interior data and machine-exterior data and with consideration of changeable target data (column 5, lines 34-61).



As per claim 19, Bischoff is directed to a method as defined in claim 1; and further comprising generating changed situation patterns by the data processing system in dependence on machine-interior data and machine-exterior data and with consideration of changeable target data (column 6, lines 45-65).

As per claim 20, Bischoff is directed to a method as defined in claim 1; and further comprising storing process algorithms, situation patterns or both in data sets which include at least a part of machine-internal data, machine-external data and target data (column 6, lines 49-65).

As per claim 21, Bischoff is directed to a method as defined in claim 1; and further comprising incorporating in the data processing system situation patterns and associated process algorithms and/or optimized adjustable parameters to be available for further machines (column 4, line 60 – column 5, line 12).

As per claim 22, Bischoff is directed to a method as defined in claim 1, wherein the machine is an agricultural harvester; and further comprising determining at least one process algorithm depending on harvesting conditions of the agricultural harvester (Figure 2 and accompanying text).

### **Conclusion**

9. The prior art made of record is not relied upon because it is cumulative to the applied rejection.

These references include:

1. U.S. Patent No. 6,622,070 B1 issued to Wacker et al. on 09/16/03.
2. U.S. Patent No. 6,937,939 B1 issued to Shibusawa et al. on 08/30/05.
3. U.S. Patent No. 4,337,611 issued to Mailander et al. on 07/06/82.

10. All Claims are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne Lo whose telephone number is (571)272-5876. The examiner can normally be reached on M-F, 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on (571)272-2297. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Suzanne Lo  
Patent Examiner  
Art Unit 2128

SL  
10/27/06

  
KAMINI SHAH  
SUPERVISORY PATENT EXAMINER